IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2510 OF 2005
ALONGWITH
CRIMINAL WRIT PETITION NO. 2511 OF 2005
ALONGWITH
CRIMINAL WRIT PETITION NO. 2512 OF 2005

Rajendra P. Garg & Anr ...Petitioners

Versus

Mrs. Nisha P. Budhrani & Anr ...Respondents

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Ms. Chhaya Bhagat i/b Mr.V.K. Shah, Advocate for Petitioners

Mr. Rajesh More, A.P.P. in WP No.2510/05
Mr. R.S.Khadapkar, APP in WP No. 2511/05
Mr. B.H. Mehta, APP in WP No.2512/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 17TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of process issued against them in Criminal Case Nos. 4877/SS/2005, 4878/SS/2005 and 4879/SS/2005 which are pending in the Court of learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai. In the said cases, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. It is made clear that this relief is only in respect of the petitioners only.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petitions are disposed of.

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